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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	ATTORNEY DOCKET NO. CONFIRMATION NO.	
10/004,090	10/23/2001		Michael Kowalchik	EMR-00301	9342	
25181	7590	12/02/2004		EXAMINER		
FOLEY HO	OAG, LL	P	CHACE, CHRISTIAN			
PATENT GROUP, WORLD TRADE CENTER WEST 155 SEAPORT BLVD			ART UNIT	PAPER NUMBER		
BOSTON, MA 02110				2187		

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



issues for appeal; and/or (d) they present additional claims without canceling a corresponding number of finally rejected claims. NOTE: 3. Applicant's reply has overcome the following rejection(s):		Application No.	Applicant(s)	X					
Examiner Art Unit Christian P. Chace 2187	Advisory Action	10/004,090	KOWALCHIK ET AL.	V					
THE REPLY FILED 2D October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, thrither action by the applicant is required to avoid abandonment of this application. A proper regipt to a final rejection under 37 CFR 1.13 may only be either; (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. PERIOD FOR REPLY (check either a) or b)] a) The period for reply expires f_months from the mailing date of the final rejection. Or 20 the date set forth in the final rejection. Whichever is later. In hower, with the statutory period for reply expires ox: (1) the mailing date of the final rejection. ORLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TO REPLY (the mail of the final rejection on event, however, with the statutory period for reply expires and the purposes of determining the period of extensions and the corresponding amount of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP TO REPLACE THE PROPERTY of the final rejection on the file of the final rejection on event, however, with the statutory period for explayers and the corresponding amount of the file. The appropriate extension the replacement of time may be obtained under 37 CFR 1.133(a). The date on which the petition under 37 CFR 1.135(a) and the appropriate extension the set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any exame adjustment. See 37 CFR 1.194(d), to avoid dismissal of the appeal and the final rejection, even if timely filed, or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the final rejection, even if the proprise of the period of the final rejection in the file of the filed	·	Examiner	Art Unit						
THE REPLY FILED 29 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may pub be either: (1) a timely filed emendment within places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. PERICO FOR REPLY (check either a) or b)] The period for reply expires 1 months from the mailing date of this Advisory Action; or (2) the date set forth in the final rejection. The period for reply expires 1 months from the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later, on the period for reply expires 1 months of the final rejection. The period for reply expires 1 months of the final rejection, whichever is later, on the period for reply expires 1 months of the final rejection. Which the replace of the final rejection of the final reje		Christian P. Chace	2187						
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no event, however, will the statulory period for reply expire later than SIX MONITHS from the mailing date of the final rejection. ONLY OHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension that the petition of the first purposes of determining the period of extension and the corresponding amount of the fer. The appropriate extension is the period of the store and statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.79(2) and the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal. 2 The proposed amendment(s) will not be entered because: (a) they raise new issues that would require further consideration and/or search (see NOTE below); (b) they raise the issue of new matter (see Note below); (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) they present additional claims without canceling a corresponding number of finally rejected claims. NOTE: NOTE: NOTE: NOWIE: NOWIE: NOWIE: Proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). Proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). The alj affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: Claim(s) afficavit, by expenditure of the proposed amendment(s) a) will not be entered or b) will be entered	a) The period for reply expires 1 months from the mailing date of the final rejection.								
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Continuation of 10. Other: With respect to applicants' submission of an IDS on 27 July 2004, as applicants admit, it was received after the final rejection was sent, and no statement under 37 CFR 1.97(e) and no fee were received, persuant to MPEP 609. A copy of the 1449 associated with same is enclosed with a line drawn through the references to indicate that they have not been considered by

With respect to the statement at page 7 of the instant submission claiming that a power of attorney to prosecute will be submitted, examiner respectfully reminds applicants that it must actually be submitted and entered before examiner can communicate with the representative listed therein. Accordingly, examiner has attempted to contact the attorneys of record to ask them to remind applicants to correct the power of attorney, should it, in fact, be desired.

As to applicants' arguments with respect to the rejections of the claims (1-7 and 10-29 under 35 USC 102 and 8-9 under 35 USC 103), specifically that the cited prior art does not anticipate the claim language, even as amended, examiner respectfully disagrees. Applicants have included the subject matter of claims 10-11 into claim 1, 11 and 21 into claim 20, and 28 and 29 into claim 24, and then canceled claims 10-11, 21, and 28-29.

Applicants continue by traversing the rejection of former claim 11, now incorporated into claim 1, by arguing that Brant et al do not teach a data storage device having a controller configured to implement a RAID scheme that is independent of a hierarchically higher RAID controller that sends the data storage device RAID data. Examiner respectfully disagrees, and refers applicants to the final rejection of claim 11 in the previous Office action. It is noted that with respect to the other independent claims, applicants rely on this argument with respect to claim 1 as well.

In column 5, lines 30-40, Brant et al recite, "Further down the hierarchy, inexpensive controllers coupled to an array in RAID1 configurations can yield high I/O rates. Still further down the hierarchy, RAID5 configurations reduce the cost of protected storage with small redundancy groups and higher capacity disk." In column 6, lines 29-31, Brant et al recite, "Conversely, an entirely separate high capacity data storage device can independently provide the subsystem 25 functions." Column 6 continues by reciting, in lines 51-53, that "Typically, subsystem 25 includes its own controller to handle data exchanges coordinated with controller 20" (RAID cache controller). Clearly, Brant et al teach the instant claim language. .

Christian P. Chace Examiner. AU 2187